

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MISTER SOFTEE INC.

Plaintiff,

v.

**KOOL KAT TREATS, LLC
d/b/a MR. FROSTEE et al.**

Defendants.

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CIVIL ACTION NO.

CV 05-4111 (BMC)(ETB)

NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE

Pursuant to Fed. R.Civ.P. 41(a)(1), plaintiff dismisses this action with prejudice as against the following defendants **ONLY**: John Luke, Inc. and S. Konstantikakos.

HARGRAVES McCONNELL & COSTIGAN, P.C.

By: 

Andrew J. Costigan (3761)
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Of Counsel: Jeffrey Zucker
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Attorneys for Plaintiff Mister Softee, Inc.

Dated: January 22, 2007

CERTIFICATE OF SERVICE

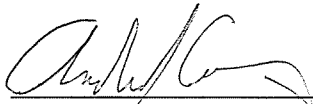
I, Andrew J. Costigan, certify that I have this day caused a true and correct copy of the below described pleading or motion to be served upon opposing the parties at the address listed below:

Pleading or Motion served: Plaintiff's Notice of Voluntary Dismissal as to Defendants John Luke, Inc. and S. Konstantakakos.

Defendants: JOHN LUKE, INC.
26 20 23rd Avenue
Astoria, NY 11105

S. KONSTANTAKAKOS
40 Berry Hill Lane
Bethpage, NY 11714

Mode of Service: Via first class mail



Andrew J. Costigan

Date: January 22, 2007